

14 CFR Parts 1264 and 1271

RIN 2700-AE67

[NASA Document Number: NASA-23-015]

Implementation of the Federal Civil Penalties Inflation Adjustment Act and Adjustment of Amounts for 2023

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) has adopted a final rule making inflation adjustments to civil monetary penalties within its jurisdiction. This final rule represents the annual 2023 inflation adjustments of monetary penalties. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Bryan R. Diederich, Office of the General Counsel, NASA Headquarters, (202) 358-0216.

SUPPLEMENTARY INFORMATION:

I. Background

The Inflation Adjustment Act, as amended by the 2015 Act, required Federal agencies to adjust the civil penalty amounts within their jurisdiction for inflation by July 1, 2016. Subsequent to the 2016 adjustment, Federal agencies were required to make an annual inflation adjustment by January 15 every year thereafter.¹ Under the amended Act, any increase in a civil penalty made under the Act will apply to penalties assessed after the increase takes effect, including penalties whose associated violation predated the increase.² The inflation adjustments mandated by the Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

Pursuant to the Act, adjustments to the civil penalties are required to be made by January

15 of each year. The annual adjustments are based on the percent change between the United States Department of Labor’s Consumer Price Index for All Urban Consumers (CPI-U) for the month of October preceding the date of the adjustment and the CPI-U for October of the prior year (28 U.S.C. 2461 note, section (5)(b)(1)). Based on that formula, the cost-of-living adjustment multiplier for the 2023 adjustment is 1.07745. Pursuant to the 2015 Act, adjustments are rounded to the nearest dollar.

II. The Final Rule

This final rule makes the required adjustments to civil penalties for 2023. Applying the 2023 multiplier above, the adjustments for each penalty are summarized below.

Law	Penalty Description	2022 Penalty	Penalty Adjusted for 2023
Program Fraud Civil Remedies Act of 1986	Maximum Penalties for False Claims	\$12,537	\$13,508

¹ See 28 U.S.C. 2461 note.

² Inflation Adjustment Act section 6, *codified at* 28 U.S.C. 2461 note.

Department of the Interior and Related Agencies Appropriations Act of 1989, P.L. 101-121, sec. 319	Minimum Penalty for use of appropriated funds to lobby or influence certain contracts	\$22,021	\$23,727
Department of the Interior and Related Agencies Appropriations Act of 1989, P.L. 101-121, sec. 319	Maximum Penalty for use of appropriated funds to lobby or influence certain contracts	\$220,213	\$237,268
Department of the Interior and Related Agencies Appropriations Act of 1989, P.L. 101-121, sec. 319	Minimum penalty for failure to report certain lobbying transactions	\$22,021	\$23,727
Department of the Interior and Related Agencies Appropriations Act	Maximum penalty for failure to report certain lobbying transactions	\$220,213	\$237,268

of 1989, P.L. 101- 121, sec. 319			
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This rule codifies these civil penalty amounts by amending parts 1264 and 1271 of title 14 of the CFR.

III. Legal Authority and Effective Date

NASA issues this rule under the Federal Civil Penalties Inflation Adjustment Act of 1990,³ as amended by the Debt Collection Improvement Act of 1996,⁴ and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,⁵ which requires NASA to adjust the civil penalties within its jurisdiction for inflation according to a statutorily prescribed formula.

Section 553 of title 5 of the United States Code generally requires an agency to publish a rule at least 30 days before its effective date to allow for advance notice and opportunity for public comments.⁶ After the initial adjustment for 2016, however, the Civil Penalties Inflation Adjustment Act requires agencies to make subsequent annual adjustments for inflation “notwithstanding section 553 of title 5, United States Code.” Moreover, the 2023 adjustments are made according to a statutory formula that does not provide for agency discretion.

Accordingly, a delay in effectiveness of the 2023 adjustments is not required.

IV. Regulatory Requirements

³ Pub. L. 101-410, 104 Stat. 890 (1990).

⁴ Pub. L. 104-134, section 31001(s)(1), 110 Stat. 1321, 1321-373 (1996).

⁵ Pub. L. 114-74, section 701, 129 Stat. 584, 599 (2015).

⁶ *See* 5 U.S.C. 533(d).

Executive Orders 12866 and 13563

Executive Orders (EOs) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). EO 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under EO 12866 and was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.⁷

Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 14 CFR Parts 1264 and 1271

Claims, Lobbying, Penalties.

For the reasons stated in the preamble, NASA is amending 14 CFR parts 1264 and 1271 as follows:

PART 1264—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL PENALTIES ACT OF 1986

1. The authority citation for part 1264 continues to read as follows:

⁷ 5 U.S.C. 603(a), 604(a).

Authority: 31 U.S.C. 3809, 51 U.S.C. 20113(a).

§ 1264.102 [Amended]

2. In § 1264.102, in the undesignated paragraphs following paragraph (a)(1)(iv) and (b)(1)(ii), remove “\$12,537” and add in its place “\$13,508”.

PART 1271—NEW RESTRICTIONS ON LOBBYING

3. The authority citation for part 1271 continues to read as follows:

Authority: Section 319, Pub. L. 101-121 (31 U.S.C. 1352); Pub. L. 97-258 (31 U.S.C. 6301 *et seq.*)

§ 1271.400 [Amended]

4. In § 1271.400:

a. In paragraphs (a) and (b), remove the words “not less than \$22,021 and not more than \$220,213” and add in their place the words “not less than \$23,727 and not more than \$237,268.”

b. In paragraph (e), remove the two occurrences of “\$22,021” and add in their place “\$23,727” and remove “\$220,213” and add in its place “\$237,268”.

Appendix A to Part 1271 [Amended]

5. In appendix A to part 1271:

a. Remove “\$22,021” everywhere it appears and add in its place “\$23,727.”

b. Remove “\$220,213” everywhere it appears and add in its place “\$237,268.”

Nanette Smith,

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